

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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ELSA GULINO, MAYLING RALPH, PETER :
WILDS, and NIA GREENE, on behalf of :
themselves and all other similarly situated, :
Plaintiffs, :
-against- :
THE BOARD OF EDUCATION OF THE CITY :
SCHOOL DISTRICT OF THE CITY OF NEW :
YORK, :
Defendant. :
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**DECLARATION OF
STEPHANIE WOOD-GARNETT**

96 Civ. 8414 (KMW)

STEPHANIE WOOD-GARNETT hereby declares, pursuant to 28 U.S.C. § 1746 and under penalty of perjury, that the following is true and correct:

1. I am an Assistant Commissioner of Higher Education within the New York State Education Department (“SED”) and have held this position since February 2012. In this capacity, among other things, I am responsible for overseeing SED’s initiatives to improve teacher quality, including the oversight of teacher preparation programs and the implementation of new teacher certification examinations. Additionally, I have responsibility for providing guidance to New York State public and private universities and colleges regarding SED’s policies and initiatives, and for advising the Commissioner of Education and the Board of Regents on issues relating to teaching and teacher quality. For the past fifteen years, I have been actively employed in education management and administration, and have frequently lectured in those areas.

2. At the request of Defendant Board of Education of the City School District of the City of New York (“the City Board”), I submit this declaration to supply the Court with information regarding New York State’s strong interest in maintaining state-wide certification

standards for public school teachers and of upcoming changes to New York State's teacher certification requirements, including the introduction of new and revised teacher certification examinations that are expected to become operational in September 2013. I am familiar with the matters set forth herein based upon my work at SED and my review of business records maintained by SED.

3. The State of New York has a vital interest in ensuring that all children in the State's public schools receive a quality education, and that public school teachers are minimally qualified by demonstrating sufficient pedagogical skills and academic knowledge to meet the requirements for certification. Article 11, section 1 of the New York State Constitution imposes a duty on the State to "provide for the maintenance and support of a system of free common schools, wherein all children of this state shall be educated." To implement this mandate, the Board of Regents has established a state-wide teacher licensing requirement, and the Commissioner of Education has broad statutory authority to implement regulations governing the examination and certification of teachers employed in the public schools of the state.

4. As of July 1, 2013, there are 695 local school districts and 37 boards of cooperative educational services ("BOCES") in New York State, employing more than 220,000 public school teachers. During the 2011-2012 school-year, approximately 2,670,548 students attended New York State public schools. The New York City school district is the largest in the State, serving approximately 969,996 students and employing approximately 70,333 teachers during the 2011-2012 school-year. Requiring state-wide, uniform certification criteria for teachers is intended to ensure that all public school students, regardless of their location within the State, receive a sound basic education from teachers who possess the necessary knowledge and skill set to effectively provide instruction and implement professional practices that can

increase student learning and achievement.

5. To this end, in May 1989, the Board of Regents designated what would become the New York State Teacher Certification Examinations ("NYSTCE") program as a key component of the State's teacher licensing functions, and promulgated regulations requiring all candidates for public school teacher certification in the State of New York to, among other things, obtain passing scores on certain NYSTCE component exams in order to become certified.

6. Pursuant to a contract with SED, National Evaluations Systems, Inc. ("NES") and/or its successor, NCS Pearson, Inc. ("Pearson") custom-developed the NYSTCE, which is comprised of more than 55 different tests, for the State of New York to reflect state-wide K-12 educational standards. The NYSTCE are criterion-referenced, objective-based tests designed to measure a candidate's knowledge and skills in relation to the New York State Teaching and Learning Standards, rather than in relation to the performance of other candidates. The purpose of these examinations is to help identify for certification those candidates who have demonstrated the appropriate level of knowledge and skills that are essential for performing the responsibilities of an educator in New York State public schools.

7. Under the current NYSTCE assessment program, which has been in effect since February 2, 2004, candidates for an initial teaching certificate are required to take and obtain passing scores on three certification exams: (1) the Liberal Arts and Sciences Test ("LAST"), which is designed to measure a candidate's general knowledge of liberal arts content including math and sciences, humanities, historical and social scientific awareness, and written analysis and expression; (2) an Assessment of Teaching Skills-Written examination ("ATS-W"), which evaluates a candidate's pedagogical knowledge and covers areas such as student development, instruction, and assessment; and (3) a Content Specialty Test ("CST") in a candidate's intended

certification area, which is designed to assess content area knowledge and skills. Copies of the June 2003 frameworks for the LAST and ATS-W are attached as Exhibits A and B, respectively, but are also publicly available at http://www.nystce.nesinc.com/PDFs/NY_fld01_objs.pdf (LAST), http://www.nystce.nesinc.com/PDFs/NY_fld90_objs.pdf (ATS-W Elementary), and http://www.nystce.nesinc.com/PDFs/NY_fld91_objs.pdf (ATS-W Secondary).

8. Although I have no personal knowledge of the test development process pertaining to the LAST, I am generally aware that the LAST has been refined several times since it was first administered in 1993, most recently in 2004, and that it is an examination that assesses a candidate's grasp of scientific and mathematical processes, historical facts, and social scientific awareness, and ability to engage in analysis, critical thinking, and written expression.

9. In July 2009, the United States Department of Education ("USDOE") announced its Race to the Top ("RTTT") initiative, a \$4.35 billion competitive grant fund in which applicants were required to demonstrate strong state-wide commitment to implement comprehensive reform plans in four specific areas established by USDOE: (1) adopting standards and assessments that prepare students to succeed in college and the workplace, and to compete in the global economy; (2) building data systems that measure student growth and success, and inform teachers and principals about how they can improve instruction; (3) recruiting, developing, rewarding, and retaining effective teachers and principals, especially where they are most needed; and (4) turning around the lowest achieving schools.

10. As part of its RTTT commitment, the Board of Regents thereafter approved a number of initiatives for the purpose of transforming teaching, learning, and school leadership in New York State, including adopting the Common Core State Standards ("CCSS" or "Common Core"). The CCSS initiative was a joint effort by Governors and state commissioners of

education from across the country to develop a common core of state standards in English language arts (ELA) and mathematics for grades K-12. One of the main goals of the CCSS initiative was to develop a common core of standards that are internationally benchmarked, aligned with work and post-secondary education expectations, and inclusive of the higher order skills that students need. In April 2009, former Governor David Paterson and former SED Commissioner Richard P. Mills signed a Memorandum of Agreement along with fifty other states and territories to participate in the national dialogue to develop these voluntary standards. Between September 2009 and March 2010 various drafts were released for public feedback and revisions were made based thereon. The final CCSS were released in June 2010, and were formally adopted by New York State in July 2010. Other states also began adopting the CCSS immediately, many as part of their commitment to the federal RTTT reform efforts. Copies of the CCSS for ELA and Mathematics are publicly available at http://www.p12.nysed.gov/ciai/common_core_standards/pdfdocs/p12_common_core_learning_standards_ela.pdf (ELA), and http://www.p12.nysed.gov/ciai/common_core_standards/pdfdocs/nysp12ccslmath.pdf (Math).

11. The CCSS allow states to share a common definition of “readiness” at each grade level, by working backwards based upon the demands of college and careers. The CCSS demands significant shifts in the way instruction is delivered. Each CCSS teacher must uniformly adopt these shifts, so that students remain on track towards success in college and careers. These shifts in instruction require that both existing and new teachers learn new skills that will allow them to reflect upon and evolve within their respective classroom practices. Thus, a related initiative was to strengthen the assessments for the certification of teachers by creating a teacher performance assessment and increasing the rigor of the content specialty tests.

12. In May 2010, the Board of Regents reaffirmed the direction to establish more

rigorous teacher certification exams, including the Academic Literacy Skills Test (“ALST”), the Educating All Students test (“EAS”), the edTPA, and revised versions of the CSTs. All four exams are aligned with and assess knowledge and skills identified in the Common Core.

13. With these and other reform commitments in place, the State submitted RTTT grant applications in January 2010 (Phase I) and June 2010 (Phase II). On August 24, 2010, the USDOE announced that New York State had been awarded a grant of \$696,646,000 in the second round of the RTTT competition.

14. Under the new NYSTCE assessment program, candidates seeking an initial teaching certificate will be required to take and obtain passing scores on four certification examinations: (1) the ALST, which is designed to assess a candidate’s literacy skills in the areas of reading and writing to sources; (2) the edTPA, a multi-state performance assessment in which candidates design a 3-5 lesson segment of instruction and submit a portfolio of materials including lesson plans, videotaped instruction and student work samples; (3) the EAS, which is designed to measure a candidate’s understanding of the needs of diverse learners and the skills and abilities required to meet those learning needs; and (4) as they become available, a revised CST in a candidate’s certification area as a measure of content area knowledge.

15. As with earlier NYSTCE assessments, including the LAST, ATS-W and CSTs, the ALST, EAS and revised CSTs have been or will be developed, administered, and scored by Pearson. Copies of the June 2012 draft frameworks for the ALST and EAS are attached as Exhibits C and D, respectively, but are also publicly available at http://www.nystce.nesinc.com/PDFs/NY202_OBJ_DRAFT.pdf (ALST) and http://www.nystce.nesinc.com/PDFs/NY201_OBJ_DRAFT.pdf (EAS). Unlike other examinations in the NYSTCE program, the edTPA was developed by Stanford University faculty and staff at the Stanford Center for Assessment.

Learning and Equity (“SCALE”), but will be administered and scored by Pearson. A copy of the test overview for the edTPA is attached as Exhibit E, but is also publicly available at <http://edtpa.aacte.org/wp-content/uploads/2013/01/using-edTPA.pdf>.

16. The new NYSTCE requirements go into effect for candidates applying for certification on or after May 1, 2014 or who have not completed all of their certification requirements by April 30, 2014. As there may still be candidates completing their requirements under the old certification exam program, the LAST and AST-W will continue to be administered during the 2013-2014 program year.

17. However, because the new NYSTCE assessments will be available for candidates beginning in September 2013, a candidate may instead decide to take and pass the new sequence of examinations to obtain certification as of their respective initial administration dates. The edTPA will be available for candidates beginning on September 4, 2013, and the first administrations of the ALST and EAS will be held on September 23, 2013. The revised CSTs will not be available to candidates until Spring 2014, Fall 2014 or Fall 2015, depending on the subject area. As a result, candidates seeking initial certification under the new sequence of examinations will be required to take and pass the current CST for their field until the revised test becomes available.

18. I am advised that the Plaintiffs have moved this Court for an order “(i) enjoining the [City Board] from further use of the [LAST] in any employment-related decision; and (ii) appointing a monitor to evaluate the validity of the current LAST and any future replacement for the current LAST[.]”

19. If the Plaintiffs’ motion is granted and New York City is required to hire public school teachers who have not passed the LAST, public school students in New York City will

receive instruction from teachers who have failed to demonstrate a State-mandated base of knowledge in the liberal arts and sciences and written analysis and expression skills. Historically, students who are taught by uncertified teachers have scored lower than students taught by certified teachers on state-wide examinations measuring student academic performance. The Board of Regents has long been concerned by studies showing disturbing links between low student performance and under-qualified teachers. For instance, a 2002 study based on SED and New York City data, showed that higher failure rates by teacher candidates on the LAST, or its predecessor, the NTE Core Battery, were correlated to lower student performance -- to the particular detriment of children in low-income, predominantly non-white urban school districts. See Hamilton Lankford, Susanna Loeb & James Wyckoff, *Teacher Sorting and the Plight of Urban Schools*, EDUC. EVALUATION AND POLICY ANALYSIS, Spring 2002, Vol. 24, No. 1, at 37-62. Therefore, it would be reasonably expected that New York City public school students taught by teachers who could not pass the LAST will perform more poorly than students taught by certified teachers who have successfully passed the LAST.

20. Moreover, if the Plaintiffs' motion is granted, it would impair the State's ability to meet its obligation under the New York State Constitution to provide the opportunity for a sound basic education to New York City's public school students, and contravene SED's statutory function to govern and oversee the public school system throughout New York State, as well as the policies of the Board of Regents to establish teacher certification requirements which ensure that public school students in New York State are taught by qualified teachers able to achieve the highest level of student academic performance. SED's oversight of the New York City public school system will therefore be greatly hindered, and the quality of education provided to public school students in New York City will lag behind other school districts in the State, particularly

as the Board of Regents pursues increasingly rigorous academic standards for students and correspondingly rigorous certification standards for public school teachers.

Executed in Albany, New York, this 26th day of July, 2013.



STEPHANIE WOOD-GARNETT
